



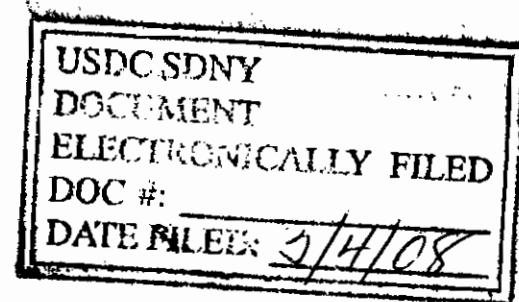
ANDREW M. CUOMO
Attorney General

CRIMINAL DIVISION
Federal Habeas Corpus Section

February 29, 2008

BY FIRST CLASS MAIL

Honorable James C. Francis IV
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1960
New York, New York 10007-1312



Re: Nathaniel Gurley v. John B. Lempke, Superintendent of
Five Points Correctional Facility,
07-CV-10942 (LTS) (JCF)

Your Honor:

I am an Assistant Attorney General in the office of Andrew M. Cuomo, Attorney General of the State of New York, attorney for respondent in the above-referenced habeas corpus petition. By order dated January 10, 2008, and received in our office on January 25, 2008, Your Honor directed the respondent to file its response to the above-referenced petition by March 14, 2008.

Although we have requested and recently received most of the relevant state court records from the New York County District Attorney's Office, we have yet to receive all of them. Specifically, we are still missing petitioner's direct appellate leave application, any letter in opposition, his New York Criminal Procedure Law ("C.P.L.") § 440.20 motion to set aside the sentence, any response and order, and any leave application and opposition letters. Therefore, I respectfully request a 60-day extension of time until May 13, 2008, to respond to the petition. An extension is necessary so that I can receive and review all the records and prepare a thorough response to the habeas petition, which contains six claims, one of which is a sentencing claim he raised on both direct appeal and in his C.P.L. § 440.20 motion. In addition, I have six other petitions that I am working on filing responses for, including three others due in March, two due in April, and one due in May. I am also drafting a reply brief in an appeal before the Second Circuit that is due in March. No previous extensions have been sought in this matter. Of course, should I receive the records and finish my response earlier than anticipated, I will make every effort to file it before the deadline.

I have not contacted petitioner concerning this request as he is proceeding *pro se* and is incarcerated. Thank you for your consideration.

Respectfully submitted,

F. H. Wen

FREDERICK H. WEN (FW 7588)

Assistant Attorney General

120 Broadway

New York, NY 10271

(212) 416-6536

cc (by U.S. Mail): Nathaniel Gurley
03-A-4589

Five Points Correctional Facility
State Route 96
P.O. Box 119
Romulus, NY 14541

3/4/08

Application granted. However, because ultimate disposition of the petition will be delayed by the need to adjudicate any objections to my Report and Recommendation, no further extensions will be permitted. Petitioner's time to reply is extended to June 16, 2008.

so ORDERED.

James C. Francis IV

DSM